

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

CEMEX, INC.

and

**Cases 28-CA-22165
28-CA-22169
28-CA-22220
28-CA-22313
28-CA-22409
28-CA-22534
28-CA-22699
28-CA-22711
28-CA-22726
28-CA-22967**

**GENERAL TEAMSTERS (EXCLUDING MAILERS),
STATE OF ARIZONA, LOCAL UNION NO. 104,
AN AFFILIATE OF THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

CEMEX, INC.

and

**Cases 28-CA-22267
28-CA-22419
28-CA-22823
28-CA-22894**

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 428, AFL-CIO**

ORDER

The requests of the Acting General Counsel and Charging Party General Teamsters (excluding Mailers), State of Arizona, Local Union No. 104, an affiliate of the International Brotherhood of Teamsters, hereinafter collectively referred to as “the parties,” for special permission to appeal two rulings by Administrative Law Judge Burton Litvack in connection with the Respondent’s Motion for Protective Order are denied. The parties’ request is denied with respect to the judge’s order that only the Charging Party Unions’ counsel may accompany counsel for the Acting General Counsel to the Respondent’s facilities for on-site review of “job tickets.” We find that the issue of whether the administrative law judge abused his discretion in denying the Charging Parties’ representatives access to the Respondent’s facilities to examine

documents is not ripe at this point, as on-site examination of the documents is contingent on the administrative law judge's ruling that counsel for the Acting General Counsel has demonstrated the need for such examination.¹

The parties' requests for special permission to appeal the administrative law judge's October 6, 2009 protective order requiring that all confidential documents submitted by the Respondent be returned within 15 days from the close of the hearing are also denied, except to the extent that the "return provision" in the judge's September 15, 2010 amended protective order would apply to documents that are part of the official record in this proceeding, including rejected exhibits.² In all other respects, we find that the administrative law judge's amended protective order of September 15, 2010 has mooted the issues raised by the parties' appeals.³

Dated, Washington, D.C., October 1, 2010.

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| CRAIG BECKER, | MEMBER |
| MARK GASTON PEARCE, | MEMBER |
| BRIAN E. HAYES, | MEMBER |

¹ This denial is without prejudice to the parties raising this issue again after a ruling by the judge, if appropriate.

² In reviewing the judge's September 15, 2010 amended protective order, we have interpreted the phrase in paragraph 7 that states "after the exhaustion of all appeals, if any" to mean appeals through the compliance stage of this proceeding.

³ To the extent that the Acting General Counsel requests that the confidential documents that are not admitted into evidence (other than any documents in an rejected exhibits file) should also be retained until the exhaustion of all appeals, this request is denied.